

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

	)	Case No. 22-11068 (JTD)
In re:	)	
	)	(Jointly Administered)
FTX TRADING LTD., <i>et al.</i> , <sup>1</sup>	)	
	)	Chapter 11
	)	
Debtors.	)	<b>Re: Docket Nos. 2240, 3661</b>
	)	

**RESERVATION OF RIGHTS OF THE U.S. SECURITIES  
AND EXCHANGE COMMISSION WITH RESPECT TO  
SECOND AMENDED INVESTMENT SERVICES AGREEMENT**

The U.S. Securities and Exchange Commission (“SEC”) files this reservation of rights with respect to the Debtors’ entry into the *Second Amended and Restated Investment Services Agreement* [Docket No. 3661] (“**Amended Agreement**”).

## BACKGROUND

1. The SEC is the federal agency responsible for regulating the U.S. securities markets, protecting investors, and enforcing the federal securities laws. On December 13, 2022 and December 21, 2022, the SEC filed complaints against the founders of FTX Trading Ltd. (“FTX”) and its former insiders, alleging they engaged in a scheme to defraud equity investors in FTX, at the same time that they were also defrauding the platform’s customers.<sup>2</sup>

<sup>1</sup> The last four digits of FTX Trading Ltd.'s and Alameda Research LLC's tax identification number are 3288 and 4063 respectively. Due to the large number of debtor entities in these Chapter 11 Cases, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at <https://cases.ra.kroll.com/FTX>.

<sup>2</sup> *SEC v. Bankman-Fried*, No. 1:22-cv-10501 (S.D.N.Y.); *SEC v. Ellison*, No. 1:22-cv-10794 (S.D.N.Y.).

2. On August 23, 2023, the Debtors filed the *Debtors' Motion For Entry Of An Order Authorizing And Approving (I) Guidelines For The Sale Or Transfer Of Certain Digital Assets, (II) The Sale Or Transfer Of Such Digital Assets In Accordance With Such Guidelines Free And Clear Of Any Liens, Claims, Interests And Encumbrances, (III) The Debtors' Entry Into, And Performance Under, Postpetition Hedging Arrangements, Including Granting Liens And Superpriority Administrative Expense Claims In Connection Therewith And (IV) The Debtors To Stake Certain Digital Assets* [Docket No. 2239] (the “**Guidelines Motion**”).

3. On August 24, 2023, the Debtors filed the *Debtors' Motion For An Order Authorizing FTX Trading Ltd. To Enter Into, And Perform Its Obligations Under, The Investment Services Agreement* [Docket No. 2240] (“**Galaxy Motion**”), seeking authorization for the Debtors to enter into an investment services agreement with Galaxy Digital Capital Management LP (“**Galaxy**”). Galaxy Motion, at 4; Guidelines Motion, at 3. A copy of the Investment Services Agreement was attached as Exhibit B to the Galaxy Motion.

4. On September 6, 2023, the SEC filed a reservation of rights [Docket No. 2438] to the Galaxy Motion and the Guidelines Motion.

5. On September 13, 2023, this Court entered an order approving the Galaxy Motion [Docket No. 2504].

6. On November 3, 2023, the Debtors filed the Amended Agreement, pursuant to which the Debtors seek to sell certain additional assets which would be managed by Galaxy.

### **RESERVATION OF RIGHTS**

7. The Debtors' portfolio includes crypto asset securities which the Debtors may seek to monetize pursuant to the Amended Agreement. The Debtors may also stake certain crypto assets pursuant to the Amended Agreement. However, the facts about how the Debtors acquired each of these crypto assets is not included in the Debtors' pleadings. And, the SEC has

alleged elsewhere that, depending on the facts and circumstances, staking programs may be investment contracts.

8. The SEC staff has reviewed the Amended Agreement and does not object to the terms thereof. In not objecting, the SEC is not opining as to the legality, under the federal securities laws, of the transactions outlined in the Amended Agreement and reserves its rights to challenge transactions involving crypto assets.

Dated: Washington, DC  
November 14, 2023

UNITED STATES SECURITIES AND  
EXCHANGE COMMISSION

By: /s/ Therese A. Scheuer

Therese A. Scheuer  
Senior Trial Counsel  
100 F. Street, NE  
Washington, DC 20549  
Phone: (202) 551-6029  
Fax: (202) 772-9317  
[scheuert@sec.gov](mailto:scheuert@sec.gov)

William M. Uptegrove  
Senior Trial Counsel  
Atlanta Regional Office  
950 East Paces Ferry Road, N.E., Suite 900  
Atlanta, GA 30326  
Phone: (404) 842-5765  
[UptegroveW@sec.gov](mailto:UptegroveW@sec.gov)

Of Counsel: Alistaire Bambach

**CERTIFICATE OF SERVICE**

I hereby certify that on this 14th day of November, 2023, a true and correct copy of the foregoing Reservation of Rights was furnished to all ECF Participants via the CM/ECF system.

/s/ Therese A. Scheuer

Therese A. Scheuer